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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/378,131	12/06/1999	DILLIS V. ALLEN	G-31	8757

7590

08/08/2003

DILLIS V ALLEN  
ATTORNEY AT LAW  
1080 NERGE ROAD SUITE 205  
ELK GROVE VILLAGE, IL 60007

EXAMINER

PASSANITI, SEBASTIANO

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 08/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

CS

### DETAILED ACTION

This Office action is responsive to communication received 05/06/2003 and styled, "RESPONSE TO OFFICE ACTION".

Receipt is acknowledged of applicant's submission of the first page of the specification.

Receipt is acknowledged of a legible copy of the Assignee's Statement Under 37 CFR §3.73.

The amendments to the specification and the claims proposed in the 05/06/2003 response have not been entered. The amendment filed 05/06/2003 proposes amendments to the specification and the claims that do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications.

**A supplemental paper correctly amending the reissue application is required.**

An explanation follows below:

Applicant's direction on page 1 of the 05/06/2003 response directs the Office to cancel the first paragraph entitled "RELATED APPLICATION" on page 2 of the specification and insert a revised paragraph. This direction to amend the specification of the patent sought to be reissued is not in accordance with the rules for amending the specification in a reissue application, as set forth in 37 CFR 1.173(b)(1).

37 CFR 1.173(b)(1) relates to the manner of making amendments to the specification other than the claims. It is not to be used for making amendments to the claims or the drawings. All amendments which include any deletions or additions must be made by submission of the entire text of each added or rewritten paragraph with markings (as defined above), except that an entire paragraph of specification text may be deleted by a statement deleting the paragraph without presentation of the text of the

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paragraph. Applicant must indicate the precise point where each amendment is made. All bracketing and underlining is made in comparison to the original patent, not in comparison to any prior amendment in the reissue application. Thus, all paragraphs, which are newly added to the specification of the original patent, must be submitted as completely underlined each time they are re-submitted in the reissue application.

In this case, the original patent does not contain a paragraph titled "RELATED APPLICATION" on page 2. Moreover, it would appear that any reference to the placement of a new paragraph styled as such should include directions for entry on page 1 of the specification, directly following the title of the invention, as it relates to U.S. Patent No. 5,301,941. In other words, the applicant may direct the change as follows:

--On page 1 of the specification, following the title, please enter the following paragraph concerning related application:

**RELATED APPLICATION**

This application is a continuation of a continuation of Reissue application U.S. Serial No. 08/880,748, filed 06/23/1997, now U.S. Patent No. Re.36,950, issued 11/07/2000, which is a continuation of Reissue application, U.S. Serial No. 08/369,910, filed 01/09/1995, now abandoned. --

Note, in the example supra, that the change has been proposed with respect to the original patent. This language is used as an example only. Applicant should verify the chain of continuing application serial numbers, filing dates, issue dates and any dates of abandonment prior to filing an amendment.

The applicant continues the 05/06/2003 response by including directions to cancel claims 1-10 and insert new claims 19-28. The applicant attempts to further

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elaborate this direction by noting that the original patent claims, amended or not amended issued as part of U.S. Patent Re. 36,950.

Applicant is respectfully advised to more thoroughly familiarize himself with the manner of making amendments to claims in reissue applications.

37 CFR 1.173(b)(2) relates to the manner of making amendments to the claims in reissue applications. It is not to be used for making amendments to the remainder of the specification or to the drawings. 37 CFR 1.173(b)(2) requires that:

- (A) For each claim that is being amended by the amendment being submitted (the current amendment), the entire text of the claim must be presented with markings as defined above;
- (B) For each new claim added to the reissue by the amendment being submitted (the current amendment), the entire text of the added claim must be presented completely underlined;
- (C) A patent claim should be canceled by a direction to cancel that claim, there is no need to present the patent claim surrounded by brackets; and
- (D) A new claim (previously added in the reissue) should be canceled by a direction to cancel that claim.

**Original patent claims are never to be renumbered; see 37 CFR 1.173(e). A patent claim retains its number even if it is canceled in the reissue proceeding, and the numbering of any added claims must begin after the last original patent claim. Pursuant to 37 CFR 1.173(c), each amendment submitted must set forth the status of all patent claims and all added claims as of the date of the submission. The status to be set forth is whether the claim is pending or canceled. The failure to submit the claim status will generally result in a notification to applicant that the amendment prior to final rejection is not completely responsive (see 37 CFR 1.135(c)). Such an amendment after final rejection will not be entered.**

Also pursuant to 37 CFR 1.173(c), each claim amendment must be accompanied by an explanation of the support in the disclosure of the patent for the amendment (i.e., support for all changes made in the claim(s), whether insertions or deletions). The failure to submit an explanation will generally result in a notification to applicant that the amendment prior to final rejection is not completely responsive (see 37 CFR 1.135(c)). Such an amendment after final rejection will not be entered.

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U.S. Patent No. Re. 36,950 issued with claims 1-22. Thus, to include any newly numbered claims in the instant reissue application as new claims 19-28 with respect to the '950 patent does not make sense. U.S. Patent No. 5,301,941 issued with claims 1-18. To include any newly numbered claims in the instant reissue application as new claims 19-28 with respect to the '941 patent appears more plausible. Applicant should review exactly which claims from which patent are to be canceled and exactly which claims are to be added and include specific directions to cancel specific claims of the patent and to add new claims.

**Moreover, note that 37 CFR 1.173 indicates that a copy of the original claims of the patent for which reissue is sought must be furnished. In this case, no copy of original patent claims has been furnished from which amendments may be made.**

Further guidance is provided in MPEP, Chapter 1400 [Original Eighth Edition, August 2001, Latest Revision February 2003], specifically Sections 1411 (page 1400-10), Section 1453 (pages 1400-54 through 1400-59) and Section 1455 (page 1400-59 through 1400-60).


Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 703-308-1006. The examiner can normally be reached on Mon-Fri (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
Sebastiano Passaniti  
Primary Examiner  
Art Unit 3711

S.Passaniti/sp  
August 6, 2003